IN THE HIGH COURT OF JUDICATURE AT BOMBAY

TESTAMENTARY AND INTESTATE JURISDICTION

MISCELLANEOUS PETITION NO.54 OF 2002

IN

PETITION NO.407 OF 1998

Smt Sukhrajidevi D. Yadav and ors. ...Petitioners

v/s

Shri Housilaprasad J. Yadav ...Respondent

Mr V. Ramkrishnan for Petitioners.

Mr E.K. Sasidharan for Respondent.

CORAM : D.K. DESHMUKH J.

DATE : 23RD JUNE 2006.

P.C. :-

1. The petitioners have filed this petition for revocation of the letter of administration granted by this Court on the ground that the petitioners were not next of kin when the petition was filed by the respondent. The petitioner No.1 who is now deceased, claims that she is widow of the deceased and that petitioner Nos.2, 3 and 4 are their children. There are no pleadings in the petition about the date, place of marriage between petitioner No.1 and the deceased. There is not even an averment that the alleged marriage between petitioner No.1 and the deceased was a valid marriage. It is also not disclosed as to according to what rites that marriage was performed. There is total absence of proper pleadings in this regard. The learned counsel appearing for petitioners states that the averment in paragraph 2 of the petition that the petitioner No.1 is widow of the deceased is enough. In my opinion, merely claiming that the petitioner No.1 is widow of the deceased would not be enough. She would have to claim that she was legally married with the deceased and give particulars about that marriage. Apart from lack of pleadings, there is no evidence placed on record about the fact of marriage. The respondent has denied that the petitioner No.1 had ever

married with the deceased. In the absence of proper pleadings and evidence and on the face of denial by the respondent, in my opinion, on the basis of these facts, grant of letter of administration cannot be revoked.

Petition is disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.